

## 2003 DRAFTING REQUEST

### Bill

Received: **03/05/2004**

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Scott Jensen (608) 264-6970**

By/Representing: **Lee Cullen**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters: **mkunkel**

Subject: **State Govt - procurement**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Jensen@legis.state.wi.us**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

State use of renewable resources

---

### Instructions:

See attached.

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 03/05/2004	kfollett 03/05/2004					
/1			pgreensl 03/05/2004		sbasford 03/05/2004	mbarman 03/08/2004	
/2	jkuesel	wjackson	pgreensl		sbasford	sbasford	

03/08/2004 01:58:56 PM  
Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	03/08/2004	03/08/2004	03/08/2004	_____	03/08/2004	03/08/2004	
				_____		sbasford	
				_____		03/08/2004	
				_____		sbasford	
				_____		03/08/2004	

FE Sent For:

<END>

*none  
needed*

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/?	jkuesel 03/05/2004	kfollett 03/05/2004					
/1	1/2 jkuesel 3/8	1/2 Wj 3/8	pgreensl 03/05/2004	3/8	sbasford 03/05/2004	mbarman 03/08/2004	

3/8 p8 PM

03/08/2004 09:59:51 AM

Page 2

***LRB-4436***

FE Sent For:

<END>

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/?	jkuesel 03/05/2004	kfollett 03/05/2004					
/1			pgreensl 03/05/2004		sbasford 03/05/2004		

03/05/2004 02:35:22 PM

Page 2

FE Sent For:

**<END>**

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1?	jkuesel	11/10/04 3/5	3/15 P8	3/18 JK/ps			

FE Sent For: <END>

# Memorandum

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**To:** Drafting File  
**From:** Mark Kunkel  
**Date:** 03/04/2004  
**Re:** Renewable Energy Request

---

After talking with Lee Cullen today, here is my understanding of the instructions.

Define "renewable resource" to mean 1) a renewable resource, as defined in s. 196.378 (1) (h) 1. or 2., or 2) a resource, as defined in s. 196.378 (1) (j) that derives electricity from hydroelectric power. The intent is to include all hydroelectric resources and to include any resources identified in rules promulgated by the PSC.

The facilities subject to the bill are limited to state-owned office buildings, educational institutions, and correctional facilities. Do not include any other types of buildings or buildings leased by the state.

On the effective date of the bill, DOA must determine the percentage of total energy used in the state by all users that is derived from renewable resources. The instructions refer to this as the "baseline". The percentage is based on all users -- state and non-state, commercial, residential, industrial, etc. -- and is not limited to total state facility use.

Establish the following goals (not requirements):

1) by 2005, when you add the baseline percentage to the percentage of state facility energy use that is derived from renewable resources, the sum must be greater than or equal to 10%

2) by 2010, when you add the baseline percentage to the percentage of state facility energy use that is derived from renewable resources, the sum must be greater than or equal to 20%

For purposes of the above goals, state facility energy use that is derived from renewable resources is measured in the aggregate. Also, in determining the amount of a particular facility's energy use that is derived from renewable resources,



March 4, 2004

include: 1) renewable energy purchased under long-term contracts from the public utility whose service territory includes the facility (the instructions refer to these purchases as “renewable options” or “green pricing programs”); and 2) renewable energy that the state generates itself for the facility at the facility. Regarding the first item, it is important to limit the energy purchases to the local public utility that serves the territory in which the facility is located because the requester wants to prevent the authorization of “retail wheeling”. Also, it is important (from the requester’s viewpoint) to specify that the purchases be made pursuant to long-term contracts, even though “long-term” isn’t defined.

Note that the requester prefers the term “target” instead of goals.

Doing all of the above will accomplish pars. (a) through (f) of the instructions. Also create requirements for the report described in par. (g).

Finally, Lee has been working with DOA on this request, and feels that the goals (or targets) are feasible.

## State of Wisconsin Renewable Energy Use Targets

The intent of this proposal is to establish targets for the State of Wisconsin's use of renewable energy.

- includes resources*
- (a) Renewable resources to be defined by s. 196.378, except that s. 196.378(1)(e) does not apply (the provision defining excludable hydro). — *(1)(h) Im.?*
  - (b) State of Wisconsin facilities defined as office buildings, educational institutions and correctional facilities owned by the State of Wisconsin. Leased facilities will not be subject to this target.
  - (c) Establish a baseline for renewable energy use in the state currently, including hydro. This baseline should be a percentage of the state's total energy consumption, not just for State of Wisconsin facilities. This should be approximately 5%, although individual utility's percentages will vary widely. — *effective date DOA*
  - (d) Using this baseline, State of Wisconsin facilities, in aggregate, should either generate or procure 10% of their electricity from renewable resources by 2005 and 20% by 2010. (Individual State of Wisconsin customers may generate or procure more or less than the 10% target, depending upon their current utilization of renewable energy, and the availability of additional renewable energy from their local utility.) — *?*
  - (e) The State of Wisconsin can either procure this renewable energy from the local utility that provides electricity to State facilities or generate it on site. In purchasing from the local utility, the State will be credited with the baseline percentage described above in (b). To purchase additional renewable energy to meet the targets above, the State will acquire the renewable energy through a renewable option offered by that local utility (e.g. a green pricing program). In light of the substantial financial commitments required by the local utility to provide sufficient renewable energy to meet these targets, state purchases shall be of a long-term nature. — *legal requirement?*
  - (f) State purchases may not exceed the maximum amount of renewable energy offered by the local utility to state facilities in a given service territory (i.e. not retail wheeling). If the State has purchased the maximum amount of renewable energy offered by the utility to state facilities in a service territory and has not met the above targets, the State will be deemed to have fulfilled its duty to purchase renewable energy in this service territory. The State should then purchase additional renewable energy in other service territories to the extent available to meet the total statewide targets described above, not to exceed the maximum amount of renewable energy offered by the local utility to state facilities in each of these other service territories. — *(?)*
  - (g) Direct the DOA to report on State compliance to the governor and legislature annually.

— *what if state doesn't meet goals?*

*should be "goals" prefer "target" not "requirements"*

*retired from local utility*

*long-term nature*

## State of Wisconsin Renewable Energy Use Targets

**Fiscal Analysis:** Prepared by DOA's Division of Energy. Feb. 13, 2004.

	Cost	As % of FY 2003 Electric Bill for State-Owned Facilities <sup>1</sup>
10% by 2005	\$806,800	1.5%
20% by 2010	\$762,000	1.4%

**Notes:**

- FY03 state spending on electricity was \$55,263,312, not including many small or seasonally occupied buildings which account for 25% of the total state owned and operated square feet. (See below regarding consumption at those facilities.)
- Includes buildings owned and operated by the state, including any leased to non-state agencies, but not facilities the state leases from others, whether or not the state pays the utility bill.
- See assumptions regarding current and future percentage of renewables under RPS, marginal cost of renewable electricity, and growth of energy use.

**Key Assumptions**

While the average marginal cost of renewable electricity is currently around 3¢ per kWh, 1.8¢ per kWh is assumed as the marginal cost of renewable electricity for all state facilities. Improvements in renewable technology as well as economies of scale argue for lower marginal costs as a long list of renewable projects are installed. See "Green Pricing Discussion" below. Also, the state is free to implement on-site generation to meet the commitment.

It is assumed that the portion of renewable electricity without RPS additions remains steady at the pre-RPS (year 2000) level of 4.45%. The analysis assumes state buildings in aggregate receive the same percentage of renewable electricity as currently consumed statewide. Green-priced electricity is assumed to be negligible compared to RPS additions, and is included in the statewide total consumption of renewable electricity.

The analysis now accounts for rising electricity use at an annual growth of 2.4%, which agrees with the state's summary report for the period FY95-FY03.

About 25% of state-owned gross square feet (GSF) is not included in the state's summary reporting of FY03 energy usage, due to small size, seasonal use, or other factors. This analysis assumes these disparate facilities account for an additional 10% electricity usage.

The analysis includes usage at two-year colleges.

**Green Pricing Discussion**

<sup>1</sup> Amounted to \$55,263,312. Source: Energy Use In State-Owned Facilities, FY03, Division of Facilities Development (now Division of State Facilities).

Cost of green pricing premiums currently range from 2.1¢ to 3.3¢. A long queue of projects by We Energies, MGE/WPPI, and an independent power producer are in various stages of development. Some will go to the RPS, some will be available for green pricing. Summary list of MWh, for a total of approximately 1,000,000 MWh:

MWh (kWh x 1000)	Utility	Renewable Energy Type	Status
400,000	We Energies	wind	PPA and local permit
120,000	We Energies	wind	PPA, no permit yet
150,000	We Energies	biogas	letter of intent? Negotiation?
40-80,000	MGE/WPPI	wind	RFP in short list negotiation
250,000	to be determined (TBD)	wind	Permit, no PPA yet
250,000	Alliant procurement	TBD	utility internal planning

Of the approximately one million MWh potentially available, the state's requirements would be 44,800 MWh in 2005 and 42,300 in 2010.

Dairyland estimates that new projects, not included in the above listing, will drop their green pricing premium to 1.5¢, using wind and biogas.

#### Sources

1. Dairyland, MGE, WPS, We Energies personal communication via RENEW (queued projects and green pricing premiums)
2. Source for FY03 usage: Energy Use in State-Owned Facilities, FY03, Division of State Facilities, <http://www.doa.state.wi.us/dsf/index.asp>
3. 2003 Wisconsin Energy Statistics (having 2002 and previous data).

## Kunkel, Mark

---

**From:** Lee Cullen [cullen@cwpb.com]  
**Sent:** Thursday, March 04, 2004 2:17 PM  
**To:** Mark.Kunkel@legis.state.wi.us  
**Subject:** Re: Renewable energy request

Mark - thanks for your e-mail. The single page with par. (a) through (g) is it. Also, on excludable hydro, you are correct: the intent was to allow all hydro, so that under 60 MW limit should also not apply. It's ok to leave the PSCW ability to define other renewable resources by rule.

I am available to talk to you at any time this afternoon. Please call. Also, Cathy Boies of our office is also working on this on behalf of CFC with Brian Rude, who was the chair of the workgroup that developed the drafting instructions. She is available to help as well.

We still believe we have a chance to pass this this session, since both Rep. Jensen and Rep. Cowles support it, and it was unanimously recommended by the Governor's Task Force.

Lee Cullen  
Cullen Weston Pines & Bach LLP  
122 West Washington Ave., Suite 900  
Madison, WI 53703  
E-Mail- cullen@cwpb.com  
Office- (608) 251-0101  
Fax- (608) 251-2883  
www.cwpb.com

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2003

Date (time)  
needed

Wanted to: 3/5

LRB- 4436, 1

BILL

JTR+MDK: kjf

Use the appropriate components and routines developed for bills.

AN ACT ... [generate catalog] *Gen* to repeal ... ; to renumber ... ; to consolidate and renumber ... ; to renumber and amend ... ; to consolidate, renumber and amend ... ; to amend ... ; to repeal and recreate ... ; and to create ... of the statutes; relating to: *used* *used* renewable resources at certain state facilities.

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: ..... create → anal: → title: → head

For the subheading, execute: ..... create → anal: → title: → sub

For the sub-subheading, execute: ..... create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: ..... create → anal: → text

insert  
anal

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4436/1ins2  
JTK & MDK.....

insert anal

This bill directs the Department of Administration (DOA) to determine a target applicable to DOA, those state agencies to which DOA delegates procurement authority, and those state agencies making procurements independently of DOA for aggregate renewable resource usage at all state-owned office buildings, state educational institutions and state correctional institutions that will enable DOA and the agencies, when combining their level of use of renewable resources with the level of use of renewable resources by all users in the state, as determined by DOA, to attain a level of at least 10% by January 1, 2005 and a level of at least 20% by January 1, 2010. The bill defines use of renewable resources at a building or institution to include energy derived from renewable resources under a long-term contract from the public utility serving the building or institution or energy derived from renewable resources that is produced by the state for the use of the building or institution.

The bill directs DOA to report annually to the governor and the legislature concerning the degree of attainment by the state in meeting the target.

on the day the  
bill becomes law



2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4436/lins  
JTK & MDK.....

as of the effective  
date of this paragraph

... [revisor  
inserts  
date],

SECTION 1. 16.75 (12) of the statutes is created to read:

16.75 (12) (a) In this subsection:

1. "Renewable resource" has the meaning given in s. 196.378 (1) (h) 1. or 2. and includes a resource, as defined in s. 196.378 (1) (j), that derives electricity from hydroelectric power.

2. "State correctional institution" has the meaning given under s. 301.01 (4).

3. "State educational institution" means the University of Wisconsin system and the schools operated by the department of public instruction.

(b) The department shall ~~initially~~ determine the level of use of renewable resources by all users in this state.

(c) The department shall establish a target applicable to the department, each purchasing agent under s. 16.71 (1), and each agency making purchases under s. 16.74 for aggregate renewable resource usage at all state-owned office buildings, state educational institutions, and state correctional institutions that will enable the department, its agents and the agencies, when combining their level of use of renewable resources with the level of use of renewable resources by all users in the

~~state~~ to attain the the following levels:

1. By January 1, 2005, at least 10%.

2. By January 1, 2010, at least 20%.

(d) For purposes of par. (c), use of renewable resources at a building or institution includes energy derived from renewable resources purchased under a long-term contract from the public utility serving the building or institution, or

determined under

percent

par. (b)

5



energy derived from renewable resources produced by the state for the use of the building or institution.

(e) No later than March 1 of each year, the department shall report to the governor and chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172<sup>✓</sup> (2), concerning the degree of attainment by the state during the preceding year in meeting the target established under par. (c).<sup>✓</sup>

(END)

**Northrop, Lori**

---

**From:** Healy, Brett  
**Sent:** Monday, March 08, 2004 9:41 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-4436/1 Topic: State use of renewable resources

It has been requested by <Healy, Brett> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-4436/1 Topic: State use of renewable resources

## Kuesel, Jeffery

---

**From:** Kunkel, Mark  
**Sent:** Monday, March 08, 2004 9:30 AM  
**To:** Kuesel, Jeffery  
**Subject:** FW: State use of renewable resources.pdf

Jeff:

Here are Lee Cullen's comments on that draft you did.

-- Mark

-----Original Message-----

From: Lee Cullen [mailto:cullen@cwpb.com]  
Sent: Sunday, March 07, 2004 1:31 PM  
To: Brett.Healy@legis.state.wi.us  
Cc: Catherine Boies; bdr@dairynet.com; Mark.Kunkel@legis.state.wi.us;  
Todd.Stuart@legis.state.wi.us  
Subject: Re: State use of renewable resources.pdf

Brett - thanks for this draft. It is consistent with the proposal recommended by the Governor's Task Force and developed by Rep. Jensen and others, with the following two suggested changes:

1. On p. 2, l. 19, change the date from 1/1/05 to 1/1/06, for the reasons suggested by Michael Vickerman of RENEW;
2. On p. 2, l. 23, change "long-term contract from the public utility" to "long-term arrangement with the public utility" since the renewable energy is more likely to be provided through utility tariffs than through contracts.

Can we make these changes quickly and get this draft introduced as a bill and on the hearing calendar for Tuesday? Does Sen. Cowles' committee have a hearing this week or can he schedule one? I am willing to testify or do whatever else is appropriate to see if this bill can make it through before the close of session. This is why Brian Rude's workgroup worked so hard to develop this recommendation.

On a related matter, will amended S.B. 111, which has now passed the Senate, be scheduled for Tuesday's hearing? This is another Task Force recommendation which it would be good to move along if at all feasible.

Lee Cullen  
Cullen Weston Pines & Bach LLP  
122 West Washington Ave., Suite 900  
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State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-4436/A 2

JTK&MDK:kjf:pg

Wanted Mon 3/8 - ZPM

EWL

2003 BILL

1

2

Regen  
AN ACT ~~to create~~ 16.75 (12) of the statutes; relating to: use of  
resources at certain state facilities.

*Analysis by the Legislative Reference Bureau*

This bill directs the Department of Administration (DOA) to determine a target applicable to DOA, those state agencies to which DOA delegates procurement authority, and those state agencies making procurements independently of DOA for aggregate renewable resource usage at all state-owned office buildings, state educational institutions and state correctional institutions that will enable DOA and the agencies, when combining their level of use of renewable resources with the level of use of renewable resources by all users in the state on the day the bill becomes law, as determined by DOA, to attain a level of at least 10 percent by January 1, 2005, and a level of at least 20 percent by January 1, 2010. The bill defines use of renewable resources at a building or institution to include energy derived from renewable resources under a long-term contract from the public utility serving the building or institution or energy derived from renewable resources that is produced by the state for the use of the building or institution.

The bill directs DOA to report annually to the governor and the legislature concerning the degree of attainment by the state in meeting the target.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

## BILL

1       SECTION 1. 16.75 (12) of the statutes is created to read:

2       16.75 (12) (a) In this subsection:

3       1. "Renewable resource" has the meaning given in s. 196.378 (1) (h) 1. or 2. and  
4 includes a resource, as defined in s. 196.378 (1) (j), that derives electricity from  
5 hydroelectric power.

6       2. "State correctional institution" has the meaning given under s. 301.01 (4).

7       3. "State educational institution" means the University of Wisconsin System  
8 and the schools operated by the department of public instruction.

9       (b) The department shall determine the level of use, as of the effective date of  
10 this paragraph .... [revisor inserts date], of renewable resources by all users in this  
11 state.

12       (c) The department shall establish a target applicable to the department, each  
13 purchasing agent under s. 16.71 (1), and each agency making purchases under s.  
14 16.74 for aggregate renewable resource usage at all state-owned office buildings,  
15 state educational institutions, and state correctional institutions that will enable the  
16 department, its agents and the agencies, when combining their level of use of  
17 renewable resources with the level of use determined under par. (b), to attain the

18 following levels:

19       1. By January 1, <sup>2006</sup>~~2005~~, at least 10 percent.

20       2. By January 1, 2010, at least 20 percent.

21       (d) For purposes of par. (c), use of renewable resources at a building or  
22 institution includes energy derived from renewable resources purchased under a  
23 long-term <sup>arrangement with</sup>~~contract from~~ the public utility serving the building or institution, or  
24 energy derived from renewable resources produced by the state for the use of the  
25 building or institution.

# BILL

(e) No later than March 1 of each year, the department shall report to the governor and chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), concerning the degree of attainment by the state during the preceding year in meeting the target established under par. (c).

**(END)**